

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

**In re: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE LITIGATION**

)
) **MDL No. 1456**
) **Master File No. 01-CV-12257-PBS**
) **Subcategory Case No. 06-11337**
) **Hon. Patti B. Saris**

THIS DOCUMENT RELATES TO:

U.S. ex rel. Ven-A-Care of the Florida Keys, Inc. v. Dey, Inc., et al., No. 05-CV-11084-PBS; and

U.S. ex rel. Ven-A-Care of the Florida Keys, Inc. v. Boehringer Ingelheim Corp. et al., No. 07-CV-10248-PBS

)
) **Magistrate Judge**
) **Marianne B. Bowler**

CONSENT MOTION TO ESTABLISH BRIEFING SCHEDULE AND HEARING DATE

Defendants Dey, Inc., Dey, L.P., and Dey L.P., Inc. (collectively, “Dey”) and Boehringer Ingelheim Roxane, Inc. (f/k/a Roxane Laboratories, Inc.) (“Roxane”) (collectively, “Defendants”) hereby request, with the agreement of the United States, that the Court extend the time limit to respond to the United States’ Motion to Consolidate Cases for Trial (Master Dkt. 6584) and establish a briefing schedule. The parties have conferred and have agreed to the following briefing schedule:

Responses/Oppositions due: November 2, 2009

Replies due: November 16, 2009

The parties have deferred the issue of sur-replies until after the receipt of the replies.

The parties also request that the United States’ Motion to Consolidate Cases for Trial be scheduled for argument on December 16, 2009.

WHEREFORE, Defendants request that the Court grant this motion, and enter an order setting forth the agreed-upon briefing schedule and setting forth a hearing for the United States' Motion to Consolidate Cases for Trial on December 16, 2009.

Dated: October 22, 2009

/s/ Sarah L. Reid

Paul F. Doyle (BBO # 133460)

Sarah L. Reid

William Escobar

Neil Merkl

KELLEY DRYE & WARREN LLP

101 Park Avenue

New York, NY 10178

Telephone: (212) 808-7800

Facsimile: (212) 808-7897

*Counsel for Defendants Dey, Inc.,
Dey L.P., Inc. and Dey, L.P.*

/s/ Eric T. Gortner

Helen E. Witt, P.C.

Anne M. Sidrys, P.C.

Eric T. Gortner

John W. Reale

KIRKLAND & ELLIS LLP

300 North LaSalle Street

Chicago, IL 60654

Telephone: (312) 862 2000

Facsimile: (312) 862 2200

*Counsel for Defendants
Boehringer Ingelheim Corp.,
Boehringer Ingelheim Pharmaceuticals, Inc.,
Boehringer Ingelheim Roxane, Inc., and
Roxane Laboratories, Inc.*

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending on October 22, 2009, a copy to LexisNexis File & Serve for posting and notification to all parties.

/s Sarah L. Reid